Action are hereby respectfully traversed and reconsideration is respectfully requested.

At the outset, undersigned wishes to gratefully acknowledge the Examiner's perception of patentable subject matter as it pertains to claims 8 through 12. The Examiner is invited to note claims 8 and 10 have been set forth in independent form and will not be discussed further so as to not burden the record. In addition, the essense of claim 8 now appears alone with claim 1 as new claim 17, and claim 10 now appears alone with claim 1 as new claim 18. Since the Examiner had disparaged the significance of the intervening claims, they have been excised as mere surplusage. The following remarks when coupled with the revisions to those claims hereinabove should provide the requisite distinction for the Examiner to conclude that patentable merit exists in those claims as now amended. Reconsideration by the Examiner is therefore respectfully requested.

Drawings

The Examiner has objected to the drawings for failing to show essential details, specifically the reference to "canopy 50" in the specification. The specification has been amended to recite "canopy 60" to be consistent with other reference numerals cited in the specification and shown in the drawings.

Claim Rejections – 35 U.S.C. § 102

With respect to the rejection of claim 1 under 35 U.S.C. § 102, the Examiner is invited to consider the following binding, compelling precedent articulated by the Court of Appeals for the Federal Circuit:

". . . anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference." *Akzo N.V. v. United States ITC*, 808 F.2d 1471, 1 U.S.P.Q.2d 1241 (Fed. Cir. 1986).

Further, "those elements must either be inherent or disclosed expressly . . ." *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 2 U.S.P.Q.2d 1051 (Fed. Cir. 1987). ". . . and must be arranged as in the claim[s] . . ." *Carella v. Starlight Archery & Pro Line Co.*, 804 F.2d 135, 231 U.S.P.Q. 644 (Fed. Cir. 1986).

In addition, ". . . [the] absence from the reference of any claimed element negates anticipation." *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 U.S.P.Q. 81 (Fed. Cir. 1986).

The Examiner has rejected claim 1 under 35 U.S.C. § 102 as being anticipated by Brown (5,383,916). The Examiner claims that Brown's system includes canopy (12) with illumination means for tanning, a pair of spaced bench supports (11), removable unit (13) disposed between said bench supports, and fan (56) for providing cool air into the system, and that unit (13) is designed to be readily removable and sent to be serviced independent of the tanning bed. It is respectfully submitted to the Examiner that this description in Brown, according to figure 1, is a description of prior art tanning beds (col. 2, lines 51-53) and the description in Brown contradicts the Examiner's assertions. Brown's invention is a tanning bed in which the unit (13) is replaced, housing the electrical components of the tanning bed in the support members, rather than in a box such as unit (13). In the prior art described by Brown, the unit (13) must be entirely disassembled and sent for repair, and is, in fact, not readily removable for servicing (col. 2, lines 63-63). Conversely, the ballast tray assembly of the present invention is housed in a module under the tanning bed that

allows access and removal of electronic components, not requiring movement of the tanning bed or disassembly of the ballast tray assembly.

Most importantly, Brown does not teach the use of knock down coupling means in the assembly of his tanning bed. Brown's patent merely discloses removable electrical components, stored in a support member, such that the bed need not be disassembled for servicing. Brown's invention directly addresses the inherent nature of prior art tanning beds to be cumbersome and awkward to disassemble, but does not provide a solution. The tanning bed of the present invention, on the other hand, is designed to be easily disassembled for relocation or repair, through the use of knock down coupling means integral with the components forming the bed. Amended claim 1 now explicitly states this property; this revision is not be construed as a *Festo* type narrowing, but merely makes explicit that which was implicit in the prior version of the claim.

Conversely, the canopy in Brown's invention moves on rollers, sliding into position over the user. The slidable nature of this type of tanning bed could, in fact, be dangerous to the use, as the rollers, or sliding assembly, may jam and trap the user inside the tanning bed. Additionally, the glass inside the tanning bed is difficult to clean: when open, a portion is obscured; when closed, the cleaning person is awkwardly oriented, either within the bed or reaching in. The knock down coupling means utilized by the present invention allow the canopy to be easily adjustable by the user and allow the canopy to swing up, or to be removed entirely, to allow access to the interior for cleaning. As the assembly heats up during use, the user may adjust the canopy more easily. Thus, all components of the tanning bed according to the present invention are easily reached and serviced,

without overlap of the invention of Brown. Thus, the Brown patent does not anticipate the present invention, and the rejection under 35 U.S.C. § 102 should be withdrawn.

Claim Rejections – 35 U.S.C. § 103

Undersigned has read the patents to Brown and Kramer et al. ('009) carefully and has failed to uncover the basis by which the Examiner has combined these references to support an obviousness type rejection of claims 2 through 7 and claims 13 through 16. Stated alternatively, there is no teaching within these citations which would warrant the combination of elements proposed by the Examiner and it is respectfully stipulated that applicant's structure would still not be obtained thereby. A specific teaching within one of the references suggesting the combination is required:

Undersigned provides the Examiner guidance with respect to rejections under 35 U.S.C. § 103 which is binding, compelling precedent from the Court of Appeals for the Federal Circuit.

"When prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself." *Interconnect Planning Corp. v. Feil*, 774 F.2d at 1143, 227 U.S.P.Q. at 551. Citing *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577 & n. 14, 221 U.S.P.Q. 929, 933 & n. 14 (Fed. Cir. 1984).

"Something in the prior art as a whole must suggest the desirability and thus the obviousness of making the combination." *Lindemann Mashcinenfabrick GmbH*

v. American Hoist and Derrick Co., 780 F.2d 1452, 1462, 221 U.S.P.Q. 481, 488 (Fed. Cir. 1984).

"It is impermissible to use the claims as a frame and the prior art references as a mosaic to piece together a facsimile of the claimed invention." *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 437 F.2d 1044 (Fed. Cir. 1988).

These precedents, which are recent decisions from the Court of Appeals for the Federal Circuit are binding precedents with respect to the manner in which patents showing the prior art can be combined. When relying on these principles, it is apparent that the prior art cannot be combined as the Examiner has proposed because there is no teaching suggesting such a combination.

As stated in MPEP 2143.03, "to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." *In re Royka*, 490 F.2d 981, 18 U.S.P.Q 580 (C.C.P.A. 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970).

"The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." *In re Fritch*, 23 U.S.P.Q.2d 1780, 1783-84 (Fed. Cir. 1992)

The Examiner has rejected claims 2 through 7 and 13 through 16 under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Kramer et al. ('009). Again, Brown is cited for disclosing a removable unit disposed between his bench supports. Brown does not contain such a unit; it has been eliminated by storing the electrical components inside his bench supports. Kramer et al. discloses a tanning

bed that houses ballasts (32) between the bench supports, inside the bottom portion of the tanning bed.

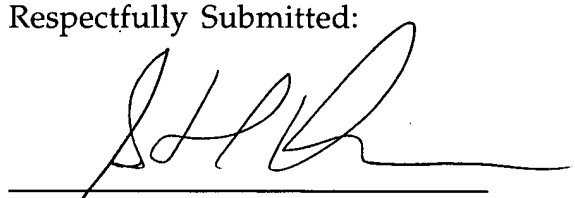
Kramer et al. does not overcome the deficiencies of Brown with respect to the present invention. Brown does not teach ballasts, nor does it utilize knock down coupling means for easy disassembly. While Kramer does use ballasts in his system, they are housed in the bottom portion of the tanning bed and do not allow for ready access and servicing. Additionally, applicant advises that he is familiar with the tanning bed of Kramer et al., and states that it would take about 2.5 hours to install the tanning bed of Kramer et al. as an awkward, integral monolith, while the tanning bed of the present invention takes approximately ten minutes to assemble and become operational. Kramer et al.'s tanning bed has no provisions whatsoever to be disassembled; the support frame (14, 18, 20) is unitary and prefastened to the lower unit (14) within its skin (Figure 7), while upper unit 16 connects via torsion spring preloaded to 3400 pounds (col. 6). The tanning bed of the present invention allows ready access for servicing and is easy to disassemble and to move. Each of claims 2 through 7 and 13 through 16 includes specific components that are specifically designated as "removable". Neither Brown nor Kramer teaches knock down coupling means for easy disassembly and moving of the tanning bed, and neither allows, in any way, for ready access for repair and servicing via removable components of the tanning bed. Therefore, the rejections under 35 U.S.C. § 103 should be withdrawn.

Claim 19 compresses claims 1 and 11 and the remaining new claims are especially warranted when considering the deficiencies of the prior art.

In view of the foregoing, it is respectfully requested that the Examiner reconsider the position taken in the last Office Action, acting favorably hereon. Thirteen new claims are before the Examiner which conform to the Examiner's perception with respect to the patentability of claims 8 through 12. If, upon further consideration, the Examiner believes further issues remain outstanding or new ones have been generated, undersigned respectfully requests that the Examiner call undersigned to expeditiously resolve same. A personal interview would also be beneficial.

Dated: November 5, 2001

Respectfully Submitted:



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Bracketed and Underlined Paragraphs of Specification

under 37 C.F.R. § 1.121(b)(1)(iii)

Paragraph beginning at page 8, line 5:

Referring first to figure 5, the tanning bed 10 generally includes a pair of spaced bench supports 20 having a ballast housing 30 interposed therebetween and fixed thereto. The bench supports 20 cradle a bench 40 in removable, overlying relationship thereto. A canopy [50] 60 is hinged to the bench 40 by removable attachment means to be described.

Bracketed and Underlined Claims under 37 C.F.R. § 1.121(c)(1)(ii)

Claim 1 (amended) - A tanning bed comprising in combination:

a plurality of modules collectively defining components of said tanning bed,

and knock-down coupling means integral with said components for assembling said components into an operational tanning bed.

Claim 4 (amended) - The bed of claim 3 including a canopy [operatively] pivotally connected to said bench by removeable attachment means, said canopy provided with illumination means for tanning.

Claim 8 (amended) - [The bed of claim 4] A tanning bed comprising in combination:

a plurality of modules collectively defining components of said tanning bed, said components including a pair of spaced bench supports including a ballast housing interposed between said bench supports and means fixing said ballast housing to said bench supports in removeable relationship thereto, wherein said bench supports cradle a bench in removeable overlying relationship thereto, said bench provided with illumination means for tanning, and [wherein said bench supports fasten to said canopy and a pair of posts project upwardly from said bench supports in frictional telescoping relationship, said posts including a pivot that supports a link operatively coupled to said canopy and adapted to allow said link and said canopy to move from a first open position wherein a tanner can lie on the bed to a second closed position where said canopy is in overlying relationship with respect to said bed and said tanner, and gas shock means [operativley] operatively

coupled with said link and said post in a path of heat radiation whereupon gas within said shock elevates in temperature upon utilization of said bed increasing the effectiveness of said gas shock;

a canopy operatively connected to said bench by removeable attachment means, said canopy provided with illumination means for tanning; and

knock-down coupling means for assembling said components into an operational tanning bed.

Claim 10 (amended) - [The bed of claim 4] A tanning bed comprising in combination:

a plurality of modules collectively defining components of said tanning bed, said components including a pair of spaced bench supports including a ballast housing interposed between said bench supports and means fixing said ballast housing to said bench supports in removeable relationship thereto, wherein said bench supports cradle a bench in removeable overlying relationship thereto, said bench provided with illumination means for tanning and wherein said bench attaches to said bench supports on one edge thereof by means of a projection on said bench support being received within a complementally formed slit on said bench, said slit provided with adequate clearance to allow articulation of said bench about said projection;

a canopy operatively connected to said bench by removeable attachment means, said canopy provided with illumination means for tanning; and

knock-down coupling means for assembling said components into an operational tanning bed.

Pending Claims under 37 C.F.R. § 1.121 (c)(3)

Claim 1 - A tanning bed comprising in combination:

a plurality of modules collectively defining components of said tanning bed,

and knock-down coupling means integral with said components for assembling said components into an operational tanning bed.

Claim 2 - The bed of claim 1 wherein said components include a pair of spaced bench supports including a ballast housing interposed between said bench supports and means fixing said ballast housing to said bench supports in removeable relationship thereto.

Claim 3 - The bed of claim 2 wherein said bench supports cradle a bench in removeable overlying relationship thereto, said bench provided with illumination means for tanning.

Claim 4 - The bed of claim 3 including a canopy pivotally connected to said bench by removeable attachment means, said canopy provided with illumination means for tanning.

Claim 5 - The bed of claim 4 wherein said ballast housing includes a pair of outwardly and downwardly projecting L-shaped legs which overlie and grasp portions of said bench supports.

Claim 6 - The bed of claim 5 wherein said ballast housing receives therewithin a plurality of ballast units formed as modules, each of said modules formed from choke ballasts oriented in series and terminating at a plug.

Claim 7 - The bed of claim 6 wherein the illumination means are a plurality of ultraviolet lights connected in series to said choke ballasts such that collectively said choke ballasts and said lights maintain current at a substantially constant level.

Claim 8 - A tanning bed comprising in combination:

a plurality of modules collectively defining components of said tanning bed, said components including a pair of spaced bench supports including a ballast housing interposed between said bench supports and means fixing said ballast housing to said bench supports in removeable relationship thereto, wherein said bench supports cradle a bench in removeable overlying relationship thereto, said bench provided with illumination means for tanning, and wherein said bench supports fasten to said canopy and a pair of posts project upwardly from said bench supports in frictional telescoping relationship, said posts including a pivot that supports a link operatively coupled to said canopy and adapted to allow said link and said canopy to move from a first open position wherein a tanner can lie on the bed to a second closed position where said canopy is in overlying relationship with respect to said bed and said tanner, and gas shock means operatively coupled with said link and said post in a path of heat radiation whereupon gas within said shock elevates in temperature upon utilization of said bed increasing the effectiveness of said gas shock;

a canopy operatively connected to said bench by removeable attachment means, said canopy provided with illumination means for tanning; and

knock-down coupling means for assembling said components into an operational tanning bed.

Claim 9 - The bed of claim 8 wherein said link is received within a hollow of said canopy, said canopy including an abutment which captures a latch projecting from said link, said hollow including a bead which frictionally resides against a terminus of said link.

Claim 10 - A tanning bed comprising in combination:

a plurality of modules collectively defining components of said tanning bed, said components including a pair of spaced bench supports including a ballast housing interposed between said bench supports and means fixing said ballast housing to said bench supports in removeable relationship thereto, wherein said bench supports cradle a bench in removeable overlying relationship thereto, said bench provided with illumination means for tanning and wherein said bench attaches to said bench supports on one edge thereof by means of a projection on said bench support being received within a complementally formed slit on said bench, said slit provided with adequate clearance to allow articulation of said bench about said projection;

a canopy operatively connected to said bench by removeable attachment means, said canopy provided with illumination means for tanning; and

knock-down coupling means for assembling said components into an operational tanning bed.

Claim 11 - The bed of claim 10 wherein an opposite side of said bench includes another slit which receives a hook supported on said bench support, said hook having releasable fastening means to release said bench relative to said bench support.

Claim 12 - The bed of claim 10 including a stand member which is interposed between said bench support and said bench to allow said bench to remain in an elevated secure position above said bench supports.

Claim 13 - The bed of claim 4 wherein a cover is provided on a concave surface of said bench and is fixed within a peripheral ledge on said bed circumscribing said cover, said cover residing on said ledge, and a plurality of fins

interposed between clusters of illumination means and underlying said cover, said cover frictionally held from said bench by means of gaskets.

Claim 14 - The bed of claim 4 wherein said canopy and said bench includes a plurality of air passageways extending longitudinally along said canopy and said bench providing cooling air from end walls of said canopy and said bench through filters located at said end walls and slits in said canopy and said bench to exhaust air by a fan mounted adjacent said slits and controlled by a temperature sensing means.

Claim 15 - The bed of claim 14 including a zone of increased radiation disposed on said canopy and oriented to address a face area of said user, said zone of increased ultraviolet radiation formed from a plurality of clusters of high output ultraviolet radiation, each cluster constrained to operate within a boxed-shaped well secured to an inverted support tray and separated from a tanner by a window.

Claim 16 - The bed of claim 15 including a plurality of fans oriented upstream from said zone of increased ultraviolet radiation to augment air flow in the face area.

Claim 17 - A tanning bed comprising in combination:

a plurality of modules collectively defining components of said tanning bed, said components including bench supports, a bed, and a canopy, wherein said bench supports fasten to said canopy and a pair of posts project upwardly from said bench supports in frictional telescoping relationship, said posts including a pivot that supports a link operatively coupled to said canopy and adapted to allow said link and said canopy to move from a first open position wherein a tanner can lie on the bed to a second closed position where said canopy is in overlying relationship with respect to said bed and said tanner, and gas shock means operatively coupled with said link and said post in a path of heat radiation

whereupon gas within said shock elevates in temperature upon utilization of said bed increasing the effectiveness of said gas shock; and

knock-down coupling means for assembling said components into an operational tanning bed.

Claim 18 - A tanning bed comprising in combination:

a plurality of modules collectively defining components of said tanning bed, said components includes a bench and bench supports; and

knock-down coupling means for assembling said components into an operational tanning bed, wherein said knock-down coupling means includes attachment of said bench to said bench supports on one edge thereof by means of a projection on said bench support being received within a complementally formed slit on said bench, said slit provided with adequate clearance to allow articulation of said bench about said projection.

Claim 19 - A tanning bed comprising in combination:

a plurality of modules collectively defining components of said tanning bed, said components including a bench and a bench support; and

knock-down coupling means for assembling said components into an operational tanning bed, wherein said knock-down coupling means includes a slit on the side of said bench which receives a hook supported on said bench support, said hook having releasable fastening means to release said bench relative to said bench support.

Claim 20 - A tanning bed, comprising, in combination:

a plurality of modules collectively defining components of said tanning bed wherein said components include illumination means; and

knock-down coupling means for assembling said components into an operational tanning bed, wherein said knock-down coupling means includes a removable cover for said illumination means, said cover having air channeling means integrated therewith.

Claim 21 - A tanning bed, comprising, in combination:

a plurality of modules collectively defining components of said tanning bed, and

knock-down coupling means for assembling said components into an operational tanning bed, said knock-down coupling means including integrally-formed panels, wherein said integrally-formed panels are independently removable.

Claim 22 - A tanning bed, comprising, in combination:

a plurality of modules collectively defining components of said tanning bed, and

knock-down coupling means for assembling said components into an operational tanning bed wherein a bench is attached to bench supports on one edge thereof by means of a projection on said bench support being received within a complementally formed slit on said bench, said slit formed as removable cap on said bench.

Claim 23 - A tanning bed, comprising, in combination:

a plurality of modules collectively defining components of said tanning bed, and

knock-down coupling means for assembling said components into an operational tanning bed wherein a canopy is attached to a bench on one edge thereof by means of a projection on said bench support being received within a

complementally formed slit on said bench, said slit formed as removable cap on said canopy.

Claim 24 - A tanning bed, comprising, in combination:

a plurality of modules collectively defining components of said tanning bed, wherein said components include plural illumination means having differing characteristics, each said illumination means being independently removable; and

knock-down coupling means for assembling said components into an operational tanning bed.

Claim 25 - A tanning bed, comprising, in combination:

a plurality of modules collectively defining components of said tanning bed, wherein said components include ventilation means whereby air is drawn into the tanning bed and exhausting means whereby said air is exhausted out of the tanning bed in a direction away from a tanner; and

knock-down coupling means for assembling said components into an operational tanning bed.

Claim 26 - The tanning bed of claim 25 wherein said components include a bench and a canopy, and wherein said ventilation means and said exhausting means operate independently in said bench and said canopy.

Claim 27 - The tanning bed of claim 25 wherein said components include a bench and a canopy, and wherein said ventilation means includes removable housings mounted on exterior extremities of said bench and/or said canopy.

Claim 28 - The tanning bed of claim 27 wherein said removable housing comprises a removable filter system.

Claim 29 - The tanning bed of claim 28 wherein said removable filter system includes an independently removable filter screen located inside said removable housing.